

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ENESTO LERNARD IVORY,)	
)	
Petitioner,)	
)	
v.)	Case No.: 2:17cv63-MHH (WO)
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

Before the Court is the Recommendation of the Magistrate Judge filed on March 19, 2019. (Doc. 8). A district court “may accept, reject, or modify, in whole or part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). A district court reviews legal conclusions in a report *de novo* and reviews for plain error factual findings to which no objection is made. *Garvey v. Vaughn*, 993 F.2d 776, 779 n. 9 (11th Cir. 1993); *see also LoConte v. Dugger*, 847 F.2d 745, 749 (11th Cir. 1988); *Macort v. Prem, Inc.*, 208 Fed. Appx. 781, 784 (11th Cir. 2006).


Neither party has objected to the recommendation. Having reviewed Mr. Ivory’s motion and brief and the relevant materials in the record, the Court finds no error in Judge Borden’s analysis of procedural default or in his factual findings concerning default. The Court reiterates that the United States Supreme Court

issued its decision in *Henderson* before Mr. Ivory pleaded guilty, and Mr. Ivory was represented by counsel in his criminal proceedings. Therefore,

1. The Court ADOPTS the Recommendation of the Magistrate Judge (Doc. 8);
2. The Court DENIES the 28 U.S.C. § 2255 motion filed by Petitioner Enesto Lernard Ivory (Doc. 1); and
3. The Court DISMISSES this matter with prejudice.

A separate final judgment will be entered.

DONE and **ORDERED** this April 15, 2019.



MADELINE HUGHES HAIKALA
UNITED STATES DISTRICT JUDGE